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REDACTED – FOR PUBLIC INSPECTION

19 November 2012

VIA HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

FILED/ACCEPTED

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**Federal Communications Commission
Office of the Secretary**

*Re: Wavecom Solutions Corporation, Transferor, and Hawaiian Telcom, Inc.,
Transferee; Application for Consent to Transfer Control, WC Docket No. 12-
206—Request for Confidential Treatment Under Protective Order*

Dear Ms. Dortch:

Through its counsel, l'Office des postes et télécommunications de Polynésie française ("OPT") hereby responds to the Commission's request for additional information in the above-referenced proceeding. On Thursday, 1 November 2012, Jodie May of the Wireline Competition Bureau contacted counsel for OPT by telephone to request that OPT file additional information on the public record. The attached letter responds to those requests.

OPT requests confidential treatment of the designated portions of the attached letter (the "Confidential Information"), pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, and requests that the Commission withhold the designated portion from any future public inspection. This document contains sensitive commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4).

Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Because OPT's commercial information is "of a kind that would not customarily be released to the public" in response to a request from Enforcement Bureau staff, this information is "confidential" under

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Exemption 4 of FOIA. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, OPT hereby states as follows:

1. Identification of Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

OPT seeks confidential treatment with respect to its letter filed in response to the Commission's request for additional information made by phone on November 1, 2012.

2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

OPT is required to disclose the Confidential Information in order fully to respond to the Commission's request for additional information relating to: (1) costs involved for moving an installed undersea cable to an alternative cable station; and (2) the pricing and payments for OPT's existing commercial arrangements with Wavecom Solutions Corporation ("Wavecom"). The Confidential Information details OPT's estimates for how much it might cost to move its Honotua cable to a new landing station, and sets forth details of its past and present commercial arrangements with Wavecom. This is sensitive commercial information that OPT does not make otherwise publicly available. Public disclosure of these measures could cause competitive commercial harm to OPT.

3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))

The information for which OPT seeks confidential treatment contains sensitive "trade secrets or privileged or confidential commercial, financial or technical data," which would customarily be guarded from competitors.¹ The Confidential Information is commercial, as it describes the details of OPT's commercial arrangements with and payments to Wavecom, and discloses OPT's internal estimates for costs associated with moving the Honotua cable and acquiring alternative cable landing party services. If a third party—such as a potential OPT service provider—had such information, it would know what OPT currently pays for the services provided by Wavecom and what OPT estimates it might pay for alternative services, and might use such information to obtain an advantage in negotiations regarding the future provision of cable landing services to OPT.

¹ 47 C.F.R. § 0.457(d)(2).

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

The facilities-based market on the U.S.-French Polynesia route is subject to competition between undersea cable operators and satellite service providers.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

Disclosure of OPT's Confidential Information would cause substantial competitive harm. *First*, disclosure would reveal in detail what OPT currently pays for the services provided by Wavecom and what OPT estimates it might pay for alternative services. Potential third-party service providers could use such information to obtain an advantage in negotiations regarding the future provision of cable landing services to OPT. *Second*, disclosure of OPT's Confidential Information would place OPT at a competitive disadvantage, as OPT lacks the same information regarding its competitors.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

OPT has never distributed to the public, government officials, competitors, or customers any of the Confidential Information. The attached letter has been drafted and reviewed by a small group of OPT employees, a consultant bound by a confidentiality agreement, and by OPT's outside regulatory counsel. Each page of the attached letter containing any of the Confidential Information is clearly marked in bold-face type "Confidential Information – Subject to Protective Order in WC Docket No. 12-206 Before the Federal Communications Commission."

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

OPT's Confidential Information is and shall remain unavailable to the public. As noted in part 6 above, OPT has not previously disclosed to third parties, other than the undersigned counsel, any of the Confidential Information.

8. Justification of Period During Which the Submitting Party Asserts that Material Should Not Be Available for Public Disclosure (Section 0.459(b)(8))

OPT requests that the Commission not disclose for 10 years from the date of this request the Confidential Information in part 1 of the attached letter (Estimated Costs and Timeframes to Execute Alternative Landing Arrangements). After such time has elapsed, the sensitivity of OPT's commercial information will have diminished, as market changes will render it

increasingly dated, and would make it difficult for competitors to gauge what OPT is currently paying, or what it anticipates it might pay, for cable landing and associated services.

OPT further requests that the Commission not disclose for 25 years from the date of this request the Confidential Information in part 2 of the attached letter (OPT's Costs for Existing Landing and Other Commercial Arrangements with Wavecom) and in Attachment 1. The Confidential Information in part 2 and in Attachment 1 remains subject to the confidentiality provisions of the Landing Party Agreement by and between OPT and Wavecom. Those provisions extend for the full term of the agreement and any extensions thereunder.

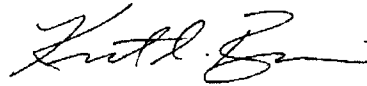
9. Other Information that OPT Believes May Be Useful in Assessing Whether Its Request for Confidentiality Should Be Granted (Section 0.459(d)(9))

Information pertaining to OPT's contractual arrangements and commercial relationship with Wavecom is subject to contractual confidentiality protections. This information is not publicly available and OPT does not share it except as permitted under those protections.

* * *

Should you have any questions concerning this letter, you may contact Kent Bressie by telephone at +1 202 730 1337 or by e-mail at kbressie@wiltshiregrannis.com.

Respectfully submitted,



Kent D. Bressie
*Counsel to Office des postes et
télécommunications de Polynésie française*

Attachment